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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/653,595   | 08/31/2000  | Ruth Marie Tritz     | 25213               | 4590             |
| 23409  | 7590        | 02/27/2006           | EXAMINER            |                  |
| MICHAEL BEST & FRIEDRICH, LLP<br>100 E WISCONSIN AVENUE<br>MILWAUKEE, WI 53202 |             |                      | ART UNIT            | PAPER NUMBER     |

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|  |   |                                     |  |
|--|---|-------------------------------------|--|
| <b>Notification of Non-Compliant Appeal Brief<br/>(37 CFR 41.37)</b> | <b>Application No.</b><br>09/653,595        | <b>Applicant(s)</b><br>TRITZ ET AL. |  |
|  | <b>Examiner</b><br>Narayanswamy Subramanian | <b>Art Unit</b><br>3624             |  |

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 07 December 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

The claims appendix does not start on a new page. Similarly other appendices are not listed on a new page. To be in compliance each of these appendices must start on a new page.

**DETAILED ACTION**

1. This communication is responsive to Appellants' Appeal Brief filed on December 7, 2005.
2. The Appeal Brief filed on May December 7, 2005 is defective because it does not comply with 37 CFR 41.37(c).

An in-depth review of the Appeal Brief indicates the following:

- 1) The "Claims appendix" as set forth in 37 CFR 41.37(c)(1)(viii) does not start on a new page.
- 2) "The Evidence appendix" as set forth in 37 CFR 41.37(c)(1)(ix) does not start on a new page; and
- 3) "Related proceedings appendix" as set forth in 37 CFR 41.37(c)(1)(x) does not start on a new page.

A substitute brief that is in compliance with 37 CFR 41.37(c) is required.

3. APPLICANT IS REQUIRED TO SUPPLY THE NECESSARY COPIES WITHIN A TIME LIMIT OF ONE MONTH FROM THE DATE OF THIS LETTER OR WITHIN TWO MONTHS FROM THE DATE OF THE NOTICE OF APPEAL OR WITHIN THE TIME ALLOWED FOR RESPONSE TO THE ACTION APPEALED FROM, WHICHEVER IS THE LONGER, TO AVOID DISMISSAL OF THE APPEAL. NO EXTENSION OF THIS ONE MONTH TIME LIMIT MAY BE GRANTED UNDER EITHER 37 C.F.R. § 1.136(a) OR (b), BUT THE TWO MONTH PERIOD FOR FILING THE BRIEF MAY BE EXTENDED TO A MAXIMUM OF SIX MONTHS.

### Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Narayanswamy Subramanian whose telephone number is (571) 272-6751. The examiner can normally be reached Monday-Thursday from 8:30 AM to 7:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached at (571) 272-6747. The fax number for Formal or Official faxes and Draft to the Patent Office is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PMR only. For more information about the PMR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dr. N. Subramanian N.S.  
February 14, 2006



**JAGDISH N. PATEL**  
**PRIMARY EXAMINER**